



January 30, 2015

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## SENATE BILL No. 261

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DIGEST OF SB 261 (Updated January 27, 2015 2:15 pm - DI 106)

**Citations Affected:** IC 31-37; IC 35-38.

**Synopsis:** Appeals by the attorney general. Specifies the circumstances under which the state can appeal in criminal and juvenile delinquency cases.

**Effective:** July 1, 2015.

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**Young R Michael, Taylor**

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January 7, 2015, read first time and referred to Committee on Corrections & Criminal Law.  
January 29, 2015, amended, reported favorably — Do Pass.

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SB 261—LS 6634/DI 106





January 30, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 261

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 31-37-13-6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 6. The right of the state to appeal in a juvenile**  
4 **delinquency case is governed by IC 35-38-4-2.**  
5       SECTION 2. IC 35-38-4-2 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. **(a)** Appeals to the  
7 supreme court or to the court of appeals, if the court rules so provide,  
8 may be taken by the state in the following cases:  
9       (1) From an order granting a motion to dismiss **one (1) or more**  
10 **counts of** an indictment or information.  
11       (2) From an order or judgment for the defendant, upon **his the**  
12 **defendant's** motion for discharge because of delay of **his the**  
13 **defendant's** trial not caused by **his the defendant's** act, or upon  
14 **his the defendant's** plea of former jeopardy, presented and ruled  
15 upon prior to trial.  
16       (3) From an order granting a motion to correct errors.

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1 (4) Upon a question reserved by the state, if the defendant is  
2 acquitted.

3 (5) From an order granting a motion to suppress evidence, if the  
4 ultimate effect of the order is to preclude further prosecution of  
5 **one (1) or more counts of an information or indictment.**

6 (6) From any interlocutory order if the trial court certifies and the  
7 court on appeal or a judge thereof finds on petition that:

8 (A) the appellant will suffer substantial expense, damage, or  
9 injury if the order is erroneous and the determination thereof  
10 is withheld until after judgment;

11 (B) the order involves a substantial question of law, the early  
12 determination of which will promote a more orderly  
13 disposition of the case; or

14 (C) the remedy by appeal after judgment is otherwise  
15 inadequate.

16 **(b) The state may not initiate an appeal of a sentence. However,**  
17 **if a defendant has initiated an appeal, the state may challenge the**  
18 **sentence by cross appeal.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 261, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, after "Sec. 2." insert "**(a)**".

Page 1, line 6, reset in roman "Appeals to the".

Page 1, reset in roman lines 7 through 8.

Page 1, line 9, reset in roman "(1) From an order granting a motion to dismiss".

Page 1, line 9, after "dismiss" insert "**one (1) or more counts of**".

Page 1, line 9, reset in roman "an indictment or".

Page 1, reset in roman line 10.

Page 1, line 11, reset in roman "(2) From an order or judgment for the defendant, upon".

Page 1, line 11, after "his" insert "**the defendant's**".

Page 1, line 11, reset in roman "motion".

Page 1, line 12, reset in roman "for discharge because of delay of".

Page 1, line 12, after "of his" insert "**the defendant's**".

Page 1, line 12, reset in roman "trial not caused by".

Page 1, line 12, after "by his" insert "**the defendant's**".

Page 1, line 12, reset in roman "act, or".

Page 1, line 13, reset in roman "upon".

Page 1, line 13, after "his" insert "**the defendant's**".

Page 1, line 13, reset in roman "plea of former jeopardy, presented and ruled upon prior".

Page 1, reset in roman lines 14 through 16.

Page 2, reset in roman lines 1 through 2.

Page 2, line 3, reset in roman "ultimate effect of the order is to preclude further".

Page 2, line 3, delete "prosecution." and insert "**prosecution of one (1) or more counts of an information or indictment.**".

Page 2, reset in roman lines 4 through 13.

Page 2, delete lines 14 through 29, begin a new paragraph and insert:

**"(b) The state may not initiate an appeal of a sentence. However,**



**if a defendant has initiated an appeal, the state may challenge the sentence by cross appeal."**

and when so amended that said bill do pass.

(Reference is to SB 261 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0.

